



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

June 25, 1996

Mr. Ron M. Pigott  
Assistant General Counsel  
Texas Department of Public Safety  
P.O. Box 4087  
Austin, Texas 78773-0001

OR96-1012

Dear Mr. Pigott:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 40301.

The Texas Department of Public Safety (the "department") received a request for:

1. Records of all arrests under Texas Penal Code § 36.06 "Obstruction or Retaliation" in Texas, separated by county, for the past two years; and
2. Records of all convictions under Texas Penal Code § 36.06 "Obstruction or Retaliation" in Texas, separated by county, for the past two years.

You assert that the requested information is excepted from required public disclosure under section 552.101 of the Government Code in conjunction with Government Code section 411.083. You have submitted to this office for review a representative sample of criminal history record information ("CHRI") that is also responsive to a separate but similar open records request the department received (which this office assigned ID# 40317). The department apparently obtained the CHRI from either the federal National Crime Information Center ("NCIC") or the Texas Crime Information Center ("TCIC"). You say the department would derive the requested information from the CHRI's.

Title 28, part 20, of the Code of Federal Regulations governs the release of CHRI which states obtain from the federal government or other states. Open Records Decision No. 565 (1990). The federal regulations allow each state to follow its individual law with respect to CHRI it generates. *Id.* Section 411.083 of the Government Code deems confidential CHRI that the Department of Public Safety (the "DPS") maintains, except that the DPS may disseminate such records as provided in chapter 411, subchapter F of the Government Code. *See also* Gov't Code § 411.087 (entities authorized to obtain information from DPS are authorized to obtain similar information from any other criminal justice agency; restrictions on disclosure of CHRI obtained from DPS also apply to CHRI obtained from other criminal justice agencies). Sections 411.083(b) provides that the department shall grant access to CHRI to various persons and entities, including criminal justice agencies, other agencies authorized by statute to receive CHRI, the person who is the subject of the CHRI, persons working on certain research projects, and other individuals or agencies that have a specific agreement to receive CHRI under certain circumstances.

The requestor here does not appear to fall within any of the access provisions of section 411.083(b). Furthermore, despite the suggestion to the contrary, we do not believe sections 411.081(a)(3) and (4) of the Government Code authorize a release to the requestor of CHRI information the department maintains. Those provisions merely permit the release of CHRI information maintained in "public judicial, administrative, or legislative proceedings" and "court records of public judicial proceedings" and have no application to CHRI in the department's possession. As you say the department must derive the requested information from confidential CHRI, we conclude the department must not release that information to the requestor based on section 552.101 of the Government Code in conjunction with chapter 411 of the Government Code, with one exception, as we will explain.

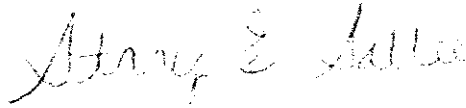
Section 411.081(b) of the Government Code reads as follows:

This subchapter does not prohibit a criminal justice agency from disclosing to the public criminal history record information that is related to the offense for which a person is involved in the criminal justice system.

Based on this provision, we believe chapter 411 of the Government Code does not prohibit the department from releasing to the requestor CHRI about a conviction for which the person is currently involved in the criminal justice system. You raise no other exception to the required public release of information related to an offense for which a person is involved in the criminal justice system. We therefore conclude that the department may not withhold such information from public disclosure.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in cursive script, appearing to read "Stacy E. Sallee".

Stacy E. Sallee  
Assistant Attorney General  
Open Records Division

SES/RWP/rho

Ref.: ID# 40301

cc: Ms. Ann del Llano  
Cooperating Attorney  
American Civil Liberties Union  
P.O. Box 3629  
Austin, Texas 78764-3629